

**MINUTES OF THE ILLINOIS WORKERS' COMPENSATION COMMISSION  
THOMPSON CENTER, 8<sup>th</sup> FLOOR ORAL ARGUMENT ROOM  
HELD ON NOVEMBER 17, 2011 3:00 PM**

**Present at the meeting were:**

Chairman Mitch Weisz  
Commissioner Yolaine Dauphin  
Commissioner David Gore  
Commissioner Kevin Lamborn  
Commissioner Ruth White  
Commissioner Charles DeVriendt  
Commissioner Thomas Tyrrell  
Commissioner Mario Basurto  
Commissioner Michael Latz

**Participating Via Conference Call**

Commissioner Daniel Donohoo

**IWCC staff present at the meeting were:**

Ms. Kim Janas, Secretary  
Ms. Dora Shabazz, Judicial Coordinator  
Mr. Darrell Widen, Assistant General Counsel

Chairman Mitch Weisz called the meeting to order at 3:10 p.m.

Upon motion duly made by Commissioner Dauphin, seconded by Commissioner Lamborn, and unanimously carried, the minutes of the Commission meeting held September 15, 2011 were approved.

Chairman Weisz started the meeting by introducing the newly appointed Commissioners: Commissioner DeVriendt, Commissioner White, and Commissioner Latz.

Kim Janas provided an update as to the rule update process. Ms. Janas noted that she and Assistant Counsel Darrell Widen have been meeting regularly since mid-September to perform an overview of the existing Rules of Practice before the Commission, as well as assessing what new rules need to be written and submitted to the Joint Committee on Administrative Rules for approval. Some of the main points of consideration in this process have been simple drafting updates, such as references to the Industrial Commission, reviewing applicable case law interpreting the rules, and also looking at new provisions that need to be enacted pursuant to House Bill 1698. Ms. Janas welcomed any additional input for recommended changes from all of the Commissioners.

Chairman Weisz then provided an update regarding changes with the Arbitrators. He noted that there were three outstanding Arbitrator appointments that still need to be made by the Governor. In

addition, there has been no definite timeline for when the Senate Confirmation process for both the newly appointed Arbitrators and Commissioners will take place, but it may not occur until February.

Chairman Weisz then started a discussion regarding the recent changes to the Workers' Compensation Act. The Commission discussed the addition of the permanent partial disability standard set forth in Section 8.1b of the Act, including some of the various interpretations of the Section.

Chairman Weisz then opened the meeting for dialogue and questions on the interpretations of Section 8.1b. The Commissioners engaged in a discussion regarding the various interpretations of the statutory language and the possible consequences of these interpretations. The Commissioners also discussed how the new Section 8.1b would impact the submission of settlement contracts.

After the discussion concluded, Chairman Weisz then asked for a recommendation from the Commission to provide to the Arbitrators as guidance for how to interpret Section 8.1b in terms of whether a impairment report would be required before an Arbitrator can issue a disability award or approve a settlement contract. Chairman Weisz stated that this recommendation would not be binding and each Arbitrator and Commissioner would need to consider the facts of each case presented before them when making their rulings.

There was a motion by Commissioner White, seconded by Commissioner Dauphin to put a divided question to a vote as the recommendation of the Commission to the Arbitrators for the recommended interpretation of Section 8.1b of the Act.

The first question of the recommendation was as follows:

**“An impairment report is not required to be submitted by the parties with a settlement contract.”**

A roll call vote was taken. All Commissioners voted in the affirmative to provide this recommendation to the Arbitrators.

The second question of the recommendation was as follows:

**“If an impairment rating is not entered into evidence, the Arbitrator is not precluded from entering a finding of disability.”**

A roll call vote was taken. All Commissioners voted in the affirmative to provide this recommendation to the Arbitrators.

The Chairman then opened the meeting for any other discussion or questions by the Commissioners. Commissioner Latz inquired about whether there may be a special review call for RAF cases. Chairman Weisz indicated that there was not currently any plan to have such a special call and added that we believe there have been 4 cases in which the Commission upheld a

suspension/termination of RAF payments thus far and one of those had been confirmed by the Circuit Court.

Commissioner Dauphin offered a suggestion to the rules review process to add a rule requiring that parties submitting a proposed decision at arbitration should be required to submit a fair and balanced summary of the facts. Chairman Weisz noted that this is an issue that should be considered and examined during the rules review process.

Upon motion duly made by Commissioner Lamborn, seconded by Commissioner Tyrrell, and unanimously carried, the meeting was adjourned at 4:20 pm.